

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2017-004586

05/19/2017

HONORABLE LORI HORN BUSTAMANTE

CLERK OF THE COURT

T. Nosker

Deputy

SAHAK RZIAN

NEAL G HORENSTEIN

v.

MAHA ABOU-ARRAJE, et al.

ANTHONY GUY SALVADOR

MINUTE ENTRY

The court has reviewed and considered the following pleadings:

- Defendant's 12(b)(6) Motion to Dismiss for Failure to State a Claim
- Plaintiff's Response to Defendant's Motion to Dismiss for Failure to State a Claim
- Defendants' Reply in Support of Motion to Dismiss

The court recognizes oral argument was requested but the issues were fully briefed and the court finds oral argument unnecessary.

Arizona Rules of Civil Procedure Rule 12(b)(6) allows for the dismissal of a claim for "[f]ailure to state a claim upon which relief can be granted." Motions to dismiss for failure to state a claim are strongly disfavored. *Acker v. CSO Chevira*, 188 Ariz. 252, 934 P.2d 816 (App. Div. 1 1997) (citing *Folk v. City of Phoenix*, 27 Ariz. App. 146, 151, 551 P.2d 595, 600 (1976)). In reviewing a Rule 12(b)(6) Motion, the "[c]ourts must . . . assume the truth of the well-pled factual allegations and indulge all reasonable inferences therefrom." *Cullen v. Auto-Owners Ins. Co.*, 218 Ariz. 417, 419, 189 P.3d 344, 346 (2008).

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Defendants seek dismissal as a result of the lease agreement lacking the signature of Defendant Simone Abou-Arraje, a joint owner of the leased premises. There are numerous issues in the case that eventually need to be resolved either through summary judgement or trial. These issues include but are not limited to whether Defendant Maha Abou-Arraje had authority to enter into the lease with Plaintiff, the application of the statute of frauds, whether specific performance is an applicable remedy, and compliance with the terms of the lease. For purposes of a Motion to Dismiss, the court must assume the truth of the allegations in favor of Plaintiff. Upon review of the Complaint and assuming the truth of the allegations and indulging all reasonable inferences therefrom, the court is unable to grant the Motion to Dismiss.

IT IS ORDERED denying Defendant's 12(b)(6) Motion to Dismiss for Failure to State a Claim.